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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,) No. CR 07-0679 WHA
Plaintiff,) UNITED STATES' STATUS
v.) MEMORANDUM FOR INITIAL
JOHN STANFORD LASELLES-) APPEARANCE
ANACLETO,) Date: November 6, 2007
a/k/a John Stanford,) Time: 2:00 p.m.
a/k/a Francisco Aleman,)
a/k/a John McGraw,)
Defendant.)

I. Introduction

The United States of America, by Scott N. Schools, United States Attorney for the Northern District of California, and by Albert B. Sambat, Special Assistant United States Attorney, submits this memorandum to provide a summary of the status of the case. This summary may assist the Court in the scheduling of further dates and the trial.

II. Nature of the Charges / Arraignment / Maximum Penalties

An indictment on this matter was returned on October 25, 2007. The indictment against the

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1 defendant charges the following offense: a violation of Title 8, United States Code, § 1326,
2 illegal re-entry by a deported alien.

3 On October 26, 2007, Magistrate Judge Edward M. Chen arraigned the defendant on the
4 indictment. A superseding indictment was then returned on November 1, 2007 charging the
5 same offense.¹ Defendant is scheduled to be arraigned on the superseding indictment on
6 November 6, 2007 at 9:30 a.m. If convicted of the offense alleged in the superseding indictment,
7 the defendant faces maximum penalties of 20 years imprisonment, a \$250,000 fine, 3 years of
8 supervised release, and a \$100 special assessment.

9 III. Defendant's Custodial Status / Attorney

10 The defendant appeared before Magistrate Judge Edward M. Chen on a complaint on October
11 12, 2007. At that initial appearance of the defendant, the United States moved to detain the
12 defendant pursuant to Title 18, United States Code § 3142(f)(2), as a serious of flight risk. A
13 detention hearing was then set for October 16, 2007.

14 On October 16, 2007, the defendant waived his detention hearing and asked the Magistrate
15 Judge to waive findings. The Magistrate Judge then set a preliminary hearing/arraignment date
16 for October 26, 2007. The defendant is currently in the custody of the U.S. Marshals.

17 Daniel Blank, Assistant Federal Public Defender represents the defendant in this case.

18 IV. Speedy Trial Date / Trial Date and Motion Dates

19 At present, the Speedy Trial Act (18 U.S.C. § 3161 et seq.) requires that the trial begin on or
20 before January 3, 2008.

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22
23 ¹ On October 24, 2007, the Ninth Circuit ruled in *United States v. Salazar-Lopez*, — F.3d —, (9th Cir. 2007); 2007 WL 3085906, that the government was required under *Apprendi v. New Jersey*, 530 U.S. 466 (2000), to allege the dates of a defendant's prior removal and his felony conviction in an indictment charging a violation of 8 U.S.C. § 1326, in order for a defendant to be subject to an increased sentence under 8 U.S.C. § 1326(b). The Ninth Circuit also ruled however that the government's failure to do so was harmless error. In light of this case, the superseding indictment now contains language that allege the dates of prior removal.

V. Discovery / Request For Reciprocal Discovery

On October 16, 2007, the United States provided the defense with the defendant's entire immigration file which includes the defendant's rap sheets, copies of fingerprint cards, fingerprint analysis reports, executed warrants of deportation, sworn statements made by the defendant in past interviews, and other various immigration documents. The United States also submitted supplemental discovery on October 24, 2007, consisting of a Certificate of Nonexistence of Record.

Accordingly, pursuant to Fed. R. Crim. P. 16(b) and Fed. R. Crim. P. 26.2(a), the United States hereby moves for reciprocal discovery.

Respectfully submitted,

SCOTT N. SCHOOLS
United States Attorney

Dated: November 5, 2007

/s/Albert B. Sambat
ALBERT B. SAMBAT
Special Assistant United States Attorney

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